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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 JONATHAN DANIEL SMITH,

7 Plaintiff,

8 v.

9 ROBIN SOUVENIR,

10 Defendants.

Case No. C19-5838 RBL-TLF

ORDER DIRECTING  
AMENDMENT OF COMPLAINT

11 Plaintiff Jonathan Daniel Smith, proceeding pro se and *in forma pauperis*, has  
12 submitted a proposed amended complaint in his civil right action pursuant to 42 U.S.C.  
13 § 1983. Dkt. 16. The Court previously granted leave for plaintiff to submit an amended  
14 complaint incorporating additional alleged facts to support plaintiff's civil rights  
15 allegations against all defendants. Dkt. 15.

16 Yet plaintiff's proposed amended complaint does not include all of plaintiff's  
17 intended claims. Instead, it appears to request plaintiff's additional information to be  
18 incorporated by reference to the original complaint (Dkt. 6). This does not conform to  
19 the pleading standards required to state a cognizable claim for relief. An amended  
20 complaint must include all facts, allegations, defendants, and demands which plaintiff  
21 wishes to bring before this court. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir.  
22 1997), *overruled in part on other grounds*, *Lacey v. Maricopa Cnty.*, 693 F.3d 896 (9th  
23 Cir. 2012). The Court will therefore allow the plaintiff additional time to file an amended  
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1 complaint, but the Court rejects the currently proposed amended complaint because it  
2 does not comply with the Federal Rules of Civil Procedure.

3 Plaintiff is directed to **file an amended complaint on or before March 3, 2020**,  
4 which shall include all of plaintiff's claims against all intended defendants (including  
5 Darren Carlson and Pat Matlock), all the facts connecting defendants' conduct to  
6 plaintiff's claim of cruel and unusual punishment, and any other relevant facts or  
7 allegations of violations of plaintiff's constitutional rights.

8 Plaintiff would need to include all the claims in plaintiff's original complaint (Dkt.  
9 6), as well as the additional claims plaintiff submitted in his response (Dkt. 13). But the  
10 amended complaint may not be a complaint-within-a-complaint that is cobbled together  
11 by incorporating various complaints by reference.

12 The proposed amended complaint must be legibly rewritten in hand-written form,  
13 or retyped, in its entirety and contain the same case number. The proposed amended  
14 complaint must be self-contained. It may incorporate independent documents by  
15 reference, as long as those documents are not the previously-filed or previously-  
16 proposed complaints.


17 Any cause of action alleged in the original complaint that is not alleged in the  
18 amended complaint is waived. *Forsyth*, 114 F.3d at 1474 (9th Cir. 1997).

19 The Court will screen the amended complaint to determine whether it states a  
20 claim for relief cognizable under 42 U.S.C. § 1983. If the amended complaint is not  
21 timely filed or fails to adequately address the issues raised herein, the undersigned will  
22 recommend dismissal of this action as frivolous under 28 U.S.C. § 1915, and the  
23 dismissal will count as a "strike" under 28 U.S.C. § 1915(g). Plaintiff should be aware  
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1 that a prisoner who brings three or more civil actions or appeals that are dismissed on  
2 the grounds that they are legally frivolous, malicious, or fail to state a claim, will be  
3 precluded from bringing any other civil action or appeal in forma pauperis, "unless the  
4 prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

5 The Clerk is directed to send Plaintiff the appropriate forms for filing a 42 U.S.C.  
6 § 1983 civil rights complaint and for service, a copy of this Order and the Pro Se  
7 Information Sheet.

8 Dated this 31st day of January, 2020.

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12 Theresa L. Fricke  
13 United States Magistrate Judge  
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